

July 18, 2020

Via ECF

Honorable Paul G. Gardephe
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Avenatti, No. S1 19 Cr. 373 (PGG)
Supplement to Motion for Adjournment of Sentencing

Dear Judge Gardephe:

We write to supplement Mr. Avenatti's motion to adjourn the sentencing date (ECF No. 298) with the latest COVID-19 data from Florida and California.

Governor Cuomo's Executive Order 205 requires “[a]ll travelers entering New York from a state with a [COVID-19] positive test rate higher than 10 per 100,000 residents, or higher than a 10% positivity rate, over a seven-day rolling average” to quarantine for 14 days.

According to the Office of Economic and Demographic Research of the Florida Legislature, the resident population of Florida is approximately 21.3 million, which means that travelers from Florida must quarantine unless the seven-day average of reported COVID-19 cases in Florida is less than 2,130. According to the Florida Department of Health, the number of reported cases over the past fourteen days is as follows:¹

Date	Number of cases
7/4	9,913
7/5	6,270
7/6	7,301
7/7	9,999
7/8	8,944
7/9	11,324
7/10	10,347
7/11	15,255
7/12	12,291
7/13	9,274
7/14	10,077
7/15	13,852
7/16	11,312
7/17	10,292

¹ http://www.doh.state.fl.us/comm_partners/covid19_report_archive/state_reports_latest.pdf

Thus, the current 7-day rolling average in Florida is 11,765, more than five times higher than necessary for undersigned counsel to avoid the quarantine. In Miami-Dade County alone, where undersigned counsel resides, there were 3,159 new cases reported today, <https://www.miamiherald.com/news/coronavirus/article244311187.html>, which is 1,029 more than permitted for the entire State of Florida for undersigned counsel to avoid a 14-day quarantine. Given that Florida has not had a single day of fewer than 2,130 reported cases since June 15 (33 days ago), it is inconceivable that the 7-day rolling average will be less than 2,130 by the date of sentencing, which is 32 days from today. It is even less possible for that rolling average to be less than 2,130 by August 5, 2020, when undersigned counsel would have to travel to New York to begin the quarantine if the current sentencing date remains in place.

In California, the estimated population is 39.5 million, which means that the rolling 7-day average must be less than 3,950 for Mr. Avenatti to avoid a fourteen (14) day quarantine in New York. According to widely published reports, of which the Court may take judicial notice, California has not had fewer than 3,950 cases since June 19, 2020, and the 7-day average for the last two weeks has exceeded 8,000 cases.

Undersigned counsel (Srebnick) has family commitments and plans in early to mid-August, including driving by car from Miami to North Carolina roundtrip to pick up my children, which would make it challenging and present a conflict for undersigned to quarantine in New York beginning on August 5. Moreover, there are substantial financial costs and logistical challenges for Mr. Avenatti, who is under house arrest, to relocate to an undetermined location in New York for 14 days in August. Finally, the requirement of quarantine would make it prohibitive for any family members or friends from outside New York to attend Mr. Avenatti's sentencing. Accordingly, we respectfully ask the Court to adjourn the sentencing hearing until October 5-9, 2020, the week before Mr. Avenatti's trial in Case No. 19 Cr. 374 is currently scheduled to commence, and also extend the date for the parties to make their sentencing submissions.

Respectfully Submitted,
/s Scott Srebnick
Scott A. Srebnick
E. Danya Perry

cc: Government Counsel